



Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

(Court Seal)

CHRIS J. EKLUND

Plaintiff

and

VICTORIA GOLD CORP, JOHN MCCONNELL (PRESIDENT & CEO), MARTY RENDALL (CFO), MARK AYRANTO (COO), T. SEAN HARVEY (AUDIT COMMITTEE), CHRISTOPHER HILL (AUDIT COMMITTEE), LETHA MACLACHLAN (AUDIT COMMITTEE), RIA FITZGERALD (AUDIT COMMITTEE), and JOSEPH OVSENEK (AUDIT COMMITTEE)

Defendants

Proceeding under the *Class Proceedings Act, 1992*, S.O. 1992, c. 6

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the Plaintiff's lawyer or, where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF

YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES,
LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID
OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has
not been set down for trial or terminated by any means within five years after the action was
commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of court office: Superior Court of Justice
330 University Avenue, 8th Floor
Toronto ON M5G 1R7

TO: VICTORIA GOLD CORP
AND TO: JOHN MCCONNELL (PRESIDENT & CEO)
AND TO: MARTY RENDALL (CFO)
AND TO: MARK AYRANTO (COO)
AND TO: T. SEAN HARVEY (AUDIT COMMITTEE)
AND TO: CHRISTOPHER HILL (AUDIT COMMITTEE)
AND TO: LETHA MACLACHLAN (AUDIT COMMITTEE)
AND TO: RIA FITZGERALD (AUDIT COMMITTEE)
AND TO: JOSEPH OVSENEK (AUDIT COMMITTEE)

CLAIM

RELIEF SOUGHT

1. The Plaintiff's claim is for:
 - (a) an order granting leave to proceed with statutory misrepresentation claims under Part XXIII.1 of the Ontario *Securities Act*, and if necessary, equivalent provincial and territorial legislation throughout Canada;
 - (b) an certifying this action as a class proceeding pursuant to the *Class Proceedings Act* appointing the plaintiff as the representative plaintiff of the class;
 - (c) statutory and general damages in the total amount of \$200,000,000 for the statutory misrepresentation claims pursuant to s. 138.5 of the *Securities Act* and the common law misrepresentation claims;
 - (d) a declaration that the Impugned Documents, as defined below, issued by Victoria Gold Corporation (“**Victoria Gold**”) contained misrepresentations under the *Securities Act* as they omitted to disclose one or more material facts required to be stated and/or were necessary to make statements not misleading in the circumstances in which they were, and contained one or more untrue statements of material facts made:
 - (e) a declaration that the Impugned Documents contained misrepresentations and omissions at common law;
 - (f) a declaration that the deficiencies in the environmental compliance and permitting at Victoria Gold resulting were a change in the business and operations of Victoria Gold that would reasonably be expected have a significant effect on the market price of Victoria Gold securities requiring the publication of a news release and material change report pursuant to section 75 of the *Securities Act*;
 - (g) a declaration that the notices of default, miner's liens registered against Victoria Gold, and the required (but not yet taken) goodwill impairment to the value of the Mine following the June 24, 2024 HLP collapse were changes in the capital of Victoria Gold that would reasonably be expected have a significant effect on the market price of Victoria Gold securities requiring the publication of a news release and material change report pursuant to section 75 of the *Securities Act*;
 - (h) a declaration that Victoria Gold and the Individual Defendants¹ are liable in damages to the Class Members who purchased Victoria Gold securities on the secondary market pursuant to section 138.3 of the Ontario *Securities Act*, and if

¹ The Individual Defendants are all defendants other than Victoria Gold.

necessary,² equivalent provincial and territorial legislation throughout Canada for the omissions and misrepresentations particularized below;

- (i) a declaration that Victoria Gold is vicariously liable for the acts and omissions of its officers, directors, and employees and for the acts and omissions of its subsidiaries and their officers, directors, and employees;
- (j) a declaration that Victoria Gold is liable for negligent misrepresentation with respect to the common law misrepresentations and omissions contained in the impugned documents;
- (k) punitive damages against Victoria Gold and the Individual Defendants, in an amount not exceeding \$50,000,000;
- (l) following the determination of the common issues, a direction pursuant to s. 25(2) of the *Class Proceedings Act* directing a reference or giving such other directions as may be necessary to determine issues not determined at the trial of the common issues;
- (m) prejudgment interest and postjudgment interest, pursuant to sections 128 and 129 of the *Courts of Justice Act*;
- (n) the costs of this action on a substantial indemnity basis plus, pursuant to section 26(9) of the *Class Proceedings Act*, the costs of notice and of administering the plan of distribution of the recovery in this action plus applicable taxes; and
- (o) such further and other relief as counsel may advise and this Court may permit.

CURRENCY AND DEFINITIONS

2. Unless otherwise specified, all dollar amounts are in Canadian dollars.
3. The following terms have the following meanings:
 - (a) “**Accounting Misrepresentations**” mean the misrepresentations related to ICFR, DC&P, and goodwill impairment of the Eagle Gold Mine, particularized in the Claim.
 - (b) “**AFS**” means Annual Financial Statements.
 - (c) “**AIF**” means Annual Information Form.
 - (d) “**Board**” means the Board of Directors of Victoria Gold Corporation.

² References to the *Securities Act* are inclusive of equivalent provincial and territorial legislation throughout Canada unless otherwise specified.

- (e) “**CEO Certifications**” means the certifications of the interim and/or annual filings by the CEO pursuant to NI 52-109.
- (f) “**CFO Certifications**” means the certifications of the interim and/or annual filings by the CFO pursuant to NI 52-109.
- (g) “**CJA**” means the *Courts of Justice Act*, R.S.O. 1990, c. C.43.
- (h) “**Class**” or “**Class Members**” means all persons, other than Excluded Persons, who acquired Victoria Gold Corporation securities during the Class Period and continued to hold some or all of those securities until the publication of one or more of the corrections, as pleaded.
- (i) “**Class Period**” means the period between July 1, 2020 and the date of certification of this action as a class proceeding or the date leave to proceed is granted under Part XXIII.1 of the *Securities Act*, whichever comes later.
- (j) “**CPA**” means the *Class Proceedings Act, 1992*, S.O. 1992, c. 6.
- (k) “**CSA**” means Canadian Securities Administrators.
- (l) “**DC&P**” means Disclosure Controls & Procedures as defined in NI 52-109.
- (m) “**Defendants**” means Victoria Gold Corporation, John McConnell, Marty Rendall, Mark Ayranto, T. Sean Harvey, Christopher Hill, Jacques Perron, Michael McInnis, Sean Roosen, Letha MacLachlan, Stephen Scott, Ria Fitzgerald, Joseph Ovsenek, Steve Haggarty, Kimberley Keating, and Susan Flasha.
- (n) “**Defendant Directors**” means the Defendants John McConnell, T. Sean Harvey, Christopher Hill, Jacques Perron, Michael McInnis, Sean Roosen, Letha MacLachlan, Stephen Scott, Ria Fitzgerald, Joseph Ovsenek, Steve Haggarty, Kimberley Keating, and Susan Flasha.
- (o) “**Defendant Officers**” means the Defendants John McConnell, Marty Rendall, and Mark Ayranto.
- (p) “**Eagle Gold**” or the “**Mine**” means the Eagle Gold Mine operated by Victoria Gold Corporation in the Yukon Territory approximately 375 kilometres North of Whitehorse and 85 kilometres north of the village of Mayo.
- (q) “**Excluded Persons**” means the Defendants, their past and present subsidiaries, affiliates, officers, directors, senior employees, partners, legal representatives, heirs, predecessors, successors and assigns, and any individual who is a member of the immediate family of an Individual Defendant.
- (r) “**Equivalent Provincial and Territorial Securities Legislation**” means, collectively, the *Securities Act*, RSA 2000, c S-4, the *Securities Act*, RSBC 1996, c 418, *The Securities Act*, CCSM c S50, the *Securities Act*, SNB 2004, c S-5.5, the *Securities Act*, RSNL 1990, c S-13, the *Securities Act*, SNWT 2008, c 10, the

Securities Act, RSNS 1989, c 418, the *Securities Act*, S Nu 2008, c 12, the *Securities Act*, RSPEI 1988, c S-3.1, the *Securities Act*, RSQ, c V-1.1, *The Securities Act*, 1988, SS 1988-89, c S-42.2, and the *Securities Act*, SY 2007, c 16, all as amended;

- (s) “**ICFR**” means Internal Controls over Financial Reporting as defined in NI 52-109.
- (t) “**IFRS**” means International Financial Reporting Standards.
- (u) “**IFS**” means Interim Financial Statements.
- (v) “**Impugned Core Documents**” mean the following documents:
 - 1) Continuous disclosure documents filed between July 2020 and March 31, 2021;
 - 2) the March 23, 2021 Consolidated Financial Statements (“**AFS**”) for the year ended December 31, 2020;
 - 3) the March 23, 2021 Management Discussion & Analysis (“**MD&A**”) for the year ended December 31, 2020;
 - 4) the March 23, 2021 Annual Information Form (“**AIF**”) for the year ended December 31, 2020;
 - 5) the March 23, 2021 Form 52-109F1 Certification of Annual Filings executed by John McConnell, President, CEO & Director (“**Annual CEO Certification**”);
 - 6) the March 23, 2021 Form 52-109F1 Certification of Annual Filings executed by Marty Rendall, CFO (“**Annual CFO Certification**”);
 - 7) the May 14, 2021 Condensed Consolidated Interim Financial Statements (“**IFS**”);
 - 8) the May 14, 2021 Interim MD&A;
 - 9) the May 14, 2021 Form 52-109F2 Certification of Interim Filings executed by John McConnell, President, CEO & Director (“**Interim CEO Certification**”);
 - 10) the May 14, 2021 Form 52-109F2 Certification of Interim Filings executed by Marty Rendall, CFO (“**Interim CFO Certification**”);
 - 11) the Management Proxy Circular filed on SEDAR+ on May 18, 2021;
 - 12) the August 13, 2021 IFS;
 - 13) the August 13, 2021 MD&A
 - 14) the August 13, 2021 Interim CEO Certification;
 - 15) the August 13, 2021 Interim CFO Certification;

- 16) the November 11, 2021 IFS;
- 17) the November 11, 2021 MD&A;
- 18) the November 11, 2021 Interim CEO Certification;
- 19) the November 11, 2021 Interim CFO Certification;
- 20) the March 24, 2022 AFS for the year ended December 31, 2021;
- 21) the March 24, 2022 MD&A for the year ended December 31, 2021;
- 22) the March 24, 2022 AIF for the year ended December 31, 2021;
- 23) the March 24, 2022 Annual CEO Certification;
- 24) the March 24, 2022 Annual CFO Certification;
- 25) the Management Proxy Circular filed on SEDAR+ on April 6, 2022;
- 26) the May 11, 2022 IFS;
- 27) the May 11, 2022 MD&A;
- 28) the May 11, 2022 Interim CEO Certification;
- 29) the May 11, 2022 Interim CFO Certification;
- 30) the August 11, 2022 IFS;
- 31) the August 11, 2022 MD&A;
- 32) the August 11, 2022 Interim CEO Certification;
- 33) the August 11, 2022 Interim CFO Certification;
- 34) the November 7, 2022 IFS;
- 35) the November 7, 2022 MD&A;
- 36) the November 7, 2022 Interim CEO Certification;
- 37) the November 7, 2022 Interim CFO Certification;
- 38) the February 22, 2023 AFS for the year ended December 31, 2022;
- 39) the February 22, 2023 MD&A for the year ended December 31, 2022;
- 40) the February 22, 2023 AIF for the year ended December 31, 2022;
- 41) the February 22, 2023 Annual CEO Certification;

- 42) the February 22, 2023 Annual CFO Certification;
- 43) the Management Proxy Circular filed on SEDAR+ on April 5, 2023;
- 44) the May 11, 2023 IFS;
- 45) the May 11, 2023 MD&A;
- 46) the May 11, 2023 Interim CEO Certification;
- 47) the May 11, 2023 Interim CFO Certification;
- 48) the August 9, 2023 IFS;
- 49) the August 9, 2023 MD&A;
- 50) the August 9, 2023 Interim CEO Certification;
- 51) the August 9, 2023 Interim CFO Certification;
- 52) the November 9, 2023 IFS;
- 53) the November 9, 2023 MD&A;
- 54) the November 9, 2023 Interim CEO Certification;
- 55) the November 9, 2023 Interim CFO Certification;
- 56) the February 20, 2024 AFS for the year ended December 31, 2023;
- 57) the February 20, 2024 MD&A for the year ended December 31, 2023;
- 58) the February 20, 2024 AIF for the year ended December 31, 2023;
- 59) the February 20, 2024 Annual CEO Certification;
- 60) the February 20, 2024 Annual CFO Certification;
- 61) the Management Proxy Circular filed on SEDAR+ on April 5, 2024;
- 62) the May 13, 2024 IFS;
- 63) the May 13, 2024 MD&A;
- 64) the May 13, 2024 Interim CEO Certification; and
- 65) the May 13, 2024 Interim CFO Certification.

(w) **“Impugned Documents”** means both the Impugned Core Documents and the Impugned Non-Core Documents.

- (x) “**Impugned Non-Core Documents**” means all documents, as defined in Part XXIII.1 of the *Securities Act*, described as containing a misrepresentation other than Core Documents, including but not limited to the statements made by John McConnell in his July 30, 2024 interview with CBC.
- (y) “**Individual Defendants**” means all Defendants other than Victoria Gold Corporation.
- (z) “**Licenses**” means the licenses obtained by Victoria Gold Corporation for the operation of the Eagle Gold Mine including but not limited to the Water Use License (QZ14-041-01) under ss. 6(1) and 7(1) of the *Waters Act* and the Quartz Mining License (QML-0011) under s. 135 of the *Quartz Mining Act*.
- (aa) “**MD&A**” means Management’s Discussion and Analysis.
- (bb) “**Misrepresentations**” means all of the misrepresentations particularized within this Claim.
- (cc) “**NI 43-101**” means National Instrument 43-101 – *Standards of Disclosure for Mineral Projects*
- (dd) “**NI 51-102**” means National Instrument 51-102 – *Continuous Disclosure Obligations*.
- (ee) “**NI 52-109**” means Nation Instrument 52-109 – *Certification of Disclosure in Issuers Annual and Interim Filings*.
- (ff) “**OSA**” or “**Securities Act**” means the Ontario *Securities Act*, R.S.O. 1990, c. S.5.
- (gg) “**TSX**” means the Toronto Stock Exchange.
- (hh) “**Victoria Gold**” or the “**Issuer**” means Victoria Gold Corporation.

OVERVIEW

4. For over half a decade, Victoria Gold has flouted its environmental licenses, health and safety regulations, and its duty to consult the Na-Cho Nyak Dun First Nation who rely upon waters downstream from the Eagle Gold Mine (“**Eagle Gold**” or the “**Mine**”) – its sole source of revenue.

5. These departures from mining best practices have resulted in a series of spills of cyanide containing effluent at the Mine, culminating in the June 24, 2024 collapse of Eagle Gold’s heap leach pad which caused the release of 300,000 cubic metres of cyanide laced mine effluent. In the days following this disaster, water downstream from the Mine was tested and found to contain

1,700 times the permissible amount of cyanide – 8.5 mg/L against a limit of 0.005 mg/L. The full extent of groundwater contamination is not yet known. Nor is the full cost of remediation.

6. Despite these repeated instances of environmental non-compliance, Victoria Gold failed to make *any* disclosure of issues with environmental compliance or the operations of the Mine. Rather, Victoria Gold repeatedly misrepresented to the investing public that it took its environmental obligations seriously and it was not aware of any regulatory actions pending against it. Most egregiously, following a smaller collapse of the same heap leach facility in January 2024, Victoria Gold made no disclosure of this event despite the highly material nature of any information relating to potential risks to the continued operations of the Mine and Victoria Gold's ability to earn revenue.

7. Following the June 24, 2024 collapse, operations at the Mine were suspended. The Mine is the sole source of revenue for Victoria Gold. It is unclear if the Mine will ever be permitted to resume operation. Even if it is permitted to resume operation, Victoria Gold may lack the resources to repair the Mine and remediate environmental damage related to its serious non-compliance with its licenses.

8. When trading resumed following the disclosure of the June 24, 2024 accident, the price of Victoria Gold common shares declined by over 80% and has continued to decline since. The Class Members, Victoria Gold shareholders, have suffered losses of hundreds of millions of dollars.

9. Victoria Gold's misrepresentations are ongoing. It has failed to issue a timely press release and file a timely material change report as required by s. 75 of the *Securities Act*. At least two unreported material changes have occurred.

10. First, Following the June 24, 2024 heap leach pad collapse, Victoria Gold has failed to file a material change report describing the deficiencies in its environmental compliance and permitting at the Mine which amount to a change in its business and operations that would reasonably be expected to have a significant effect on the market price of its securities.

11. Second, a number of material changes to the capital of Victoria Gold that would reasonably be expected to have a significant effect on the market price of its securities have occurred. These include: the notices of default from various lenders Victoria Gold received on or around July 4, 2024, the miner's liens registered against Victoria Gold between June 24 and July 31, 2024, the failure of Victoria Gold to take a timely good will impairment charge on the value of Eagle Gold, and the recognition that the approximately \$103,000,000 environmental bond Victoria Gold had posted in would be required, as well as in all likelihood additional funds, to finance the environmental clean up and remediation work at the Mine following the June 24, 2024 Heap Leach Pad collapse.

12. Further, Mr. McConell in an interview with the CBC on July 30, 2024 made material misrepresentations with respect to the status of the environmental remediation efforts at the Mine, Victoria Gold's financial position, and issues of non-compliance with mining permits.

THE PARTIES

The Plaintiff

13. Chris J. Eklund is a retail investor. Mr. Eklund, throughout the class period, purchased 10,204 shares of Victoria Gold common stock on the TSX at an average price of \$6.97 per share (a total cost of approximately \$71,100). On June 24, 2024, Mr. Eklund held 8,700 shares of Victoria Gold common stock.

14. Following disclosure of the Heap Leach Pad collapse, between June 25 and July 26, 2024 Mr. Eklund sold his remaining 8,700 shares at a significant loss (at an average price of \$1.04 per share with total proceeds of approximately \$9,000). On those shares alone, Mr. Eklund suffered a loss of over 85% of his invested capital following the partial correction of Victoria Gold's misrepresentations

The Defendants

15. Victoria Gold is a gold mining company that operates the Eagle Gold Mine (the "**Mine**" or "**Eagle Gold**") in the Yukon Territory. The head office of Victoria Gold is located at 80 Richmond Street West, Suite 204, Toronto, Ontario, M5H 2A4. Victoria Gold carries on business in Ontario, BC, and the Yukon Territory.

16. The Mine is Victoria Gold's sole source of revenue. It is subject to strict environmental regulations and requires various licenses and permits issued by the Yukon Territorial government to operate, including a Water Use License (QZ14-041-01) under ss. 6(1) and 7(1) of the *Waters Act* and a Quartz Mining License (QML-0011) under s. 135 of the *Quartz Mining Act*, collectively the "**Licenses**".

17. John McConnell is the President and CEO of Victoria Gold. He has held this position throughout the class period. He is also a member of the Victoria Gold Board of Directors. Mr. McConell, as CEO, executed interim and annual certifications as to the effectiveness of Victoria Gold's Internal Controls over Financial Report ("**ICFR**") and Disclosure Controls & Procedures ("**DC&P**").

18. Marty Rendall is the CFO of Victoria Gold. He has held this position throughout the class period. Mr. Rendall, as CFO, executed interim and annual certifications as to the effectiveness of Victoria Gold's ICFR and DC&P.

19. Mark Ayranto is the COO of Victoria Gold. He has held this position throughout the class period. Throughout the class period, as COO he was responsible for the operation and maintenance of the Heap Leach Facility, as well as the Mine's water management facilities.

20. T. Sean Harvey, Christopher Hill, Letha MacLachlan, Ria Fitzgerald, Joseph Ovsenek were all members of the Board of Directors and the Audit Committee of Victoria Gold during the class period. Jacques Perron, Michael McInnis, Sean Rosen, Steve Haggarty, Kimberley Keating, and Susan Flasha were all directors during the Class Period, collectively the "**Defendant Directors**".

21. Throughout the Class Period, each of Mr. McConnell, Mr. Rendall, and Mr. Ayranto (the "**Defendant Officers**") knew, or ought to have known, of the serious issues with environmental compliance at the Mine and the risk this posed to the continued operations of the Mine and the ability of Victoria Gold to earn revenue. Despite this, each of these individuals authorized, permitted, and/or acquiesced in the disclosure of each of the Impugned Documents.

22. The Defendant Directors were directors of Victoria Gold when one or more of the Impugned Documents were released.

VICTORIA GOLD'S DISCLOSURE OBLIGATIONS

23. Throughout the Class Period, Victoria Gold was a reporting issuer in all Canadian provinces and territories. As a reporting issuer, Victoria Gold was subject to continuous disclosure obligations. These obligations included both the obligation under s. 75 of the *Securities Act* to

report on material changes as soon as practicable, and in any event within ten days of a change occurring and periodic disclosure obligations under ss. 77 and 78 of the *Securities Act*.

24. To maintain its status as a reporting issuer and listing on the TSX, Victoria Gold was required to comply with its Continuous Disclosure obligations under the *Securities Act*, NI 51-102 as adopted by regulation under the *Securities Act* pursuant to rule 51-801 promulgated by the Ontario Securities Commission, the TSX Company Manual.

25. As a mining company, in making disclosure about the Mine, Victoria Gold was required to comply with NI 43-101 – *Standards of Disclosure for Mineral Projects*.

26. As a result, Victoria Gold was required to provide truthful and accurate disclosure related to its business, operations, and financial condition. This included discussion in its interim and annual MD&As related to its commitments, events, risks or uncertainties that Victoria Gold reasonably believed would materially affect its future performance including total revenue and profit or loss from continuing operations.

27. Throughout the Class Period, Victoria Gold and its officers and directors were also prohibited from making misrepresentations as set out in s. 126.2 of the *Securities Act*.

28. In maintaining its status as a reporting issuer with shares trading on the TSX, Victoria Gold undertook to release documents that contain all material information and were free of misrepresentations pursuant to its various reporting obligations.

THE MISREPRESENTATIONS

The Environmental Compliance Misrepresentations

29. By no later than July 2020, the Defendants were aware, or ought to have been aware, that Victoria Gold's environmental compliance at the Mine was materially deficient. Between on or around July 1, 2020 and June 24, 2024, there were a number of serious environmental incidents at Eagle Gold that Victoria Gold failed to disclose in its continuous disclosure documents. The Mine was also known for having lax safety standards and failing to enforce drug and alcohol bans on site.

30. These incidents would have warranted timely disclosure through a press release and material change report given that the Mine is Victoria Gold's sole source of revenue. Victoria Gold failed to file timely press releases and material change reports.

31. During the class period, the following serious violations of the Eagle Gold environmental permits occurred:

- (a) throughout the class period, Victoria Gold failed to re-contour the Mine's heap leach facility, an important maintenance task to mitigate environmental risks, avoid collapses at the heap leach facility, and prevent related environmental contamination;
- (b) throughout the class period, Victoria Gold failed to remove snow from the heap leach facility in accordance with its environmental permit;
- (c) throughout the class period, Victoria Gold failed to prevent its employees from using drugs and alcohol at the Mine;
- (d) throughout the class period, Victoria Gold failed to report workplace injuries and accidents at the Mine and sought to prevent the disclosure of such incidents to avoid reputational harm;
- (e) throughout the class period, Victoria Gold failed to ensure there was adequate capacity in its storage ponds to prevent serious environmental contamination in the event of a [negative event at HLF];
- (f) in March 2021, there was a 17,000 litre spill of cyanide containing effluent due to a failure of Eagle Gold's water management facilities.

- (g) in the period between July 2020 and July 2021, there were at least four reported spills of cyanide containing liquid, one involving approximately 30,000 litres of cyanide containing effluent;
- (h) in January 2024, there was a landslide at the heap leach facility; and
- (i) on June 24, 2024 there was a significant landslide at the heap leach facility that caused significant damage to the Mine and resulted in its operations being suspended.

32. On September 29, 2023, Victoria Gold pleaded guilty to six charges related to violations of its Licences following a March 2021 spill of cyanide containing solution from its heap leach facility. Following this guilty plea, Victoria Gold was fined \$95,000.

33. As a result of these incidents and others, by no later than on or around July 1, 2020, the Defendants were aware, or ought to have been aware, that Victoria Gold's significant environmental and safety issues posed a serious threat to the continued operation of the Mine. Any risk to the Mine's continued operations would be material information as the Mine was Victoria Gold's sole source of revenue and only means of servicing its debts.

34. Victoria Gold failed to discharge its disclosure obligations both by failing to issue a press release and material change report informing its investors and the market of its significant environmental and safety issues and the existential risk they posed to Victoria Gold's business. These were material facts required to be stated in the Impugned Documents, all of which are core documents issued throughout the class period. The Defendant Officers authorized, permitted, and/or acquiesced in the disclosure of each of the Impugned Documents.

35. The Impugned Documents also contain untrue statements of material fact and omit material facts necessary to make certain statements not misleading in light of the circumstances in which they were made. For example, Victoria Gold's 2023 AIF contains the following misrepresentations:

- (a) PP. 6-7: “The Company respects its employees, the environment and the communities in which it operates. Victoria acknowledges that its activities can impact the environment, **thus it is the Company’s intention to act responsibly by demonstrating stewardship to the environment. The Company believes that environmental stewardship is both a matter of ‘doing the right thing’ and a sound business practice that will create value for our shareholders.**

Victoria commits to the following principles to ensure environmental stewardship:

- * **comply with applicable legal requirements;**
- * **work to reduce or avoid potential environmental impacts through effective management, the wise use of resources, pollution prevention and other appropriate mitigative measures;**

...

- * **seek continual improvement in our environmental performance through regular review and improvement of our operational procedures;**

...

Victoria is committed to exploring for, building, operating and closing mines in an environmentally, socially and financially responsible manner.”

- (b) P. 19 “The primary HLP is comprised of a number of elements: **a confining embankment to provide stability** to the base of the HLP and a sump for operational in-situ storage of process solution, a lined storage area for the ore to be leached, pumping wells for the extraction of solution, **a lined events pond to contain excess solution in extreme events**, upstream surface water interceptor ditches, **and leak detection, recovery and monitoring systems to ensure the containment of solution.**”
- (c) P. 46: Except as disclosed herein, the Company is not aware of any other actual or pending material legal proceedings or any regulatory actions to which Victoria or any of its property is or was a party. [No regulatory or environmental proceedings are identified]

36. These statements, and equivalent statements in the other Impugned Documents, contain untrue statements of material fact and omit material facts necessary to make the statements not misleading in light of the circumstances in which they were made as:

- (a) Victoria Gold did not comply with applicable legal requirements in operating the Mine;

- (b) Victoria Gold failed to reduce or avoid potential environmental impacts and pollution;
- (c) Victoria Gold made no efforts, or wholly insufficient efforts, to improve its environmental performance and its operational procedures;
- (d) Victoria Gold failed to operate Eagle Gold in an environmentally, socially, and financially responsible manner;
- (e) The HLP did not “ensure the containment of solution” and in fact failed to contain excess cyanide containing solution repeatedly throughout the class period;
- (f) Victoria Gold was aware of environmental regulatory proceedings pending against it and in fact pleaded guilty to the violation of certain environmental regulations.

The Accounting Misrepresentations and Omissions

37. Throughout the Class Period, Mr. McConell and Mr. Rendall executed quarterly and annual certifications as to the effectiveness of Victoria Gold’s ICFR and DC&P. Their certifications to the effectiveness of Victoria Gold’s ICFR and DC&P were misrepresentations as the Defendant Officers were aware, or ought to have been aware, of the serious environmental and safety issues at the Mine and the serious risk they posed to Victoria Gold’s operations and profitability.

38. The Impugned Documents released between February 22, 2023 and the end of the class period contain numerous misrepresentations with respect to projected AISC, projected gold production, revenue, net income, and profits – all of which failed to account for the serious risk to the Mine’s continued operations due to its environmental issues.

39. The Impugned Documents released between February 22, 2023 and the end of the class period overstated Victoria Gold’s assets due to the failure to take a timely impairment charge on the carrying value of the Mine. To date, Victoria Gold has failed to recognize the significant consequences of the liens filed against Victoria Gold, the Notices of Default received from its lenders, and the fact that the \$103,000,000 remediation bond posted by Victoria Gold would need to be used for environmental clean up. Each of these amounts to a material change to the capital

of Victoria Gold that would reasonably be expected to have a significant effect on the market price of its securities.

THE PARTIAL PUBLIC CORRECTIONS

40. On June 24, 2024, Victoria Gold issued a press release at 17:07 Eastern Time, after the close of markets, confirming that the heap leach pad had failed and that operations were suspended:

WHITEHORSE, Yukon, June 24, 2024 -- Victoria Gold Corp. (TSX-VGCX) (“Victoria” or the “Company”) announces that, **this morning, the heap leach pad (“HLP”) at the Eagle Gold Mine in Yukon experienced a failure. Operations are temporarily suspended** while the site operations team along with management continue to assess the situation and gather information. At this early stage, it can be confirmed that there has been some damage to infrastructure and a portion of the failure has left containment. There have been no injuries to personnel associated with the incident. The Company will provide further information as it becomes available.

41. When trading resumed the day following this announcement, the price of Victoria Gold common shares immediately plummeted by over 80% from a closing price on June 24, 2024 of \$7.43 to \$1.15 at close of trading on June 24, 2024 with heavy trading volume. In the following ten trading days, Victoria Gold’s common shares declined to a closing price of \$0.69 on July 9, 2024 – a decline of over 90% from the closing price on the last trading day before the heap leach pad collapse on June 21, 2024.

42. While Victoria Gold’s common share price recovered somewhat following the June 24, 2024 disclosure, on July 12, 2024, Victoria Gold issued a press release stating that the Mine may never resume operations and Victoria Gold may not have the resources necessary to repair the Mine, remediate environmental effects, or restart production:

Production operations remain suspended and may not restart without authorization from the Yukon Director of Mineral Resources. Victoria will continue to work to minimize impacts to the environment, with the safety of employees as a foremost priority. **There can be no assurance that the Company**

will receive authorizations necessary to restart production, or that the Company will have the financial resources necessary to repair damage to equipment and facilities or remediate impacts caused by the incident or restart production. The Company will provide further updates in due course.

43. In the days following this disclosure, Victoria Gold's common shares declined from a market price of \$0.86 per share to as low as \$0.69 per share – a further share price decline of 19.8%.

MATERIALITY AND DAMAGES

44. The omissions and misrepresentations related to material information. The environmental compliance of the Mine was an existential issues for Victoria Gold, a reasonable investor making an investment decision would consider any risk posed to the Mine's continued operation as important. This is also confirmed by the significant affect that information about the Mine's environmental issues had on Victoria Gold's share price.

45. The suspension of Eagle Gold has received significant attention from analysts and the financial press.

46. Following the correction of the misrepresentations, Victoria Gold's market capitalization declined from approximately \$494,000,000 to approximately \$57,000,000 causing significant losses to the Class Members.

CAUSES OF ACTION

Statutory Primary and Secondary Market Liability

47. The plaintiff advances the statutory cause of action created by section 138.8(1) of Part XIII.1 of the *Securities Act*, and if necessary, in Equivalent Provincial and Territorial Securities Legislation, against the Defendants for the misrepresentations detailed above contained in the Impugned Documents.

48. The Impugned Documents are all either “core documents” or “documents”, and at all times during the Class Period Victoria Gold was a “responsible issuer” within the meaning of Part XXIII.1 of the *OSA*. The Impugned Documents contained “misrepresentations” within the meaning of the *Securities Act*, as described above, and as such individuals that acquired Victoria Gold securities during the Class Period have a cause of action against the Defendants pursuant to s. 138.3 of the *Securities Act*.

49. The Individual Defendants were each Directors or Officers of Victoria Gold during the Class Period and they authorized, permitted or acquiesced in the release of the Impugned Documents containing the misrepresentations particularized above.

50. The Defendants knew at the time the Impugned Documents were released that they contained misrepresentations, or in the alternative, they reasonably ought to have known or deliberately avoided acquiring knowledge of the misrepresentations.

Negligent Misrepresentation

51. The Impugned Documents were prepared and disseminated for the purpose of providing material information to the investing public and the Class. They were prepared and disseminated to solicit investment from the public capital markets and to induce participants in those markets, like the Class Members, to purchase Victoria Gold shares.

52. The Defendants undertook the preparation of the Impugned Documents with reasonable care, knowing that the plaintiff and the Class would reasonably rely, to their detriment, on the information provided in the Impugned Documents when making investment decisions. The Defendants were aware that the information provided in the Impugned Documents would be

incorporated into the total mix of information available to the capital markets and would have a direct affect on the trading price of Victoria Gold securities.

53. The Defendants, by virtue of their responsibility for the preparation and dissemination of the Impugned Documents for the benefit of the Class, had a common law duty of care to exercise due care and diligence to ensure that the Impugned Documents fairly and accurately disclosed all material information about the environmental compliance issues Victoria Gold was experiencing and related regulatory actions it faced. The Defendants' duty is informed by the statutory scheme created by the *Securities Act* and the TSX Company Manual, as described above.

54. The Defendants breached their duties by:

- (a) failing to take reasonable steps to understand the consequences of the environmental compliance deficiencies, including regulatory consequences, on Victoria Gold's business and operations;
- (b) failing to exercise due care in the creation and dissemination of the Impugned Documents to ensure they were fair, accurate, and complete; and
- (c) failing to disclose the existence of the numerous instances of Victoria Gold being found to have violated the conditions of its Licenses before and throughout the Class Period.

55. The Defendants had information about the business and operations of Victoria Gold that was not available to the Class or the public. They were the primary source of information about the operations and compliance of Victoria Gold with applicable laws and regulations, which was relevant and material to each Class Member's decision to acquire Victoria Gold securities and the price at which they acquired them throughout the Class Period. The Class Members relied, directly or indirectly, upon Victoria Gold's misrepresentations in deciding to acquire Victoria Gold securities and suffered damages when the misrepresentations were publicly corrected.

Vicarious Liability

56. Victoria Gold is vicariously liable for the acts and omissions of the Individual Defendants. The acts or omissions of Victoria Gold described in this claim were authorized, ordered, and executed by the Individual Defendants while they were engaged in management, direction, oversight, and control of the business and affairs of Victoria Gold. Due to the relationship between Victoria Gold and the Individual Defendants, these acts are not only the acts and omissions of the Individual Defendants but also the acts and omissions of Victoria Gold.

LEGISLATION RELIED UPON

57. The plaintiff pleads and relies upon the following statutes, and the regulations promulgated thereunder:

- (a) *Class Proceedings Act*, 1992, SO 1992, c 6;
- (b) *Courts of Justice Act*, RSO 1990, c C.43; and
- (c) *Securities Act*, RSO 1990, c S 5.

58. The plaintiff pleads and relies upon the following regulations:

- (a) General Regulation, RRO 1990, Reg 1015 under the *Securities Act*;
- (b) National Instrument 43-101 – *Standards of Disclosure for Mineral Projects*
- (c) National Instrument 51-102 – *Continuous Disclosure*;
- (d) National Instrument 52-109 – *Certification of Disclosure in Issuers Annual and Interim Filings*; and
- (e) *Ontario Securities Commission Rule 51-801 Implementing National Instrument 51-102*, OSC Rule 51-801.

SERVICE EX JURIS

59. This original process may be served without court order outside Ontario because the claim is:

- (a) In respect of a tort committed in Ontario (Rule 17.2(g) of the *Rules of Civil Procedure*); and

- (b) Brought against a person ordinarily resident or carrying on business in Ontario (Rule 17.02 (p) of the *Rules of Civil Procedure*).

August 14, 2024

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-and-

VICTORIA GOLD CORP. et al.
Defendants

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

Proceeding under the *Class Proceedings Act, 1992*

STATEMENT OF CLAIM

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